

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

IN RE:

Case No. 09-73095

RHONDA SMITH,

Chapter 7

Debtor.

Judge Thomas J. Tucker

DANIEL M. McDERMOTT,
United States Trustee,

Adv. Case No. 09-7172

Plaintiff,

vs.

KANDACE HOWARD, *pro se*,
DERRICK HILLS AND
CRANE AND SHORE, INC.,

Defendant.
_____ /

ORDER DENYING MOTION FOR RECONSIDERATION

This case is before the Court on Debtor's "Motion to Set Aside Judgment Against All Defendants," filed on February 5, 2010 (Docket # 9, the "Motion"), which this Court construes as a motion for reconsideration of, and for relief from, the January 23, 2010 Order granting default judgment (Docket # 7), and

The Court having reviewed and considered the Motion, and

The Court finds the Motion fails to demonstrate a palpable defect by which the Court and the parties have been misled, and that a different disposition of the case must result from a correction thereof. *See* Local Rule 9024-1(a)(3).

In addition, the Court finds that the allegations in the Motion do not establish “excusable neglect” or “mistake” under Fed.R.Civ.P. 60(b)(1), FedR.Bankr.P. 9024, or any other valid ground for relief from the order dismissing this case.

In addition, the Court notes the following. First, to the extent the Motion seeks relief from the default judgment on behalf of defendants other than the movant, Ms. Howard, it must be denied because Defendant Kandace Howard (movant here) has no standing to seek relief on behalf of *other* defendants. Nor is Ms. Howard an attorney, so she cannot represent either of the other defendants in this adversary proceeding.

Second, the allegation in paragraph 4 of the Motion, that on or about December 17, 2009 Defendant Howard filed an answer to the Plaintiff’s complaint in this adversary proceeding, erroneously in another case, is unsupported by the record. The Court has reviewed the docket and record of each of the following cases/adversary proceedings, and finds no answer filed by Ms. Howard *to the Plaintiff’s complaint in this adversary proceeding* having been filed in any of those cases: Case Nos. 09-73095 (the bankruptcy case of Rhonda Smith); 09-65434 (Ms. Howard’s own Chapter 7 bankruptcy case); and 09-6967 (the United States Trustee’s separate adversary proceeding against Ms. Howard arising in her own bankruptcy case).¹

NOW, THEREFORE,

¹ In Case No. 09-6967, on December 17, 2009, Ms. Howard filed, twice, an answer to some unspecified complaint of the United States Trustee, which Ms. Howard intended as an answer either the complaint in that adversary proceeding, or possibly to the complaint in some other, unspecified adversary proceeding. At the time, it appears that there were pending at least three *other* adversary proceedings, in addition to this one and Case No. 09-6967, that had been filed by the United States Trustee against Ms. Howard. These are Case Nos. 09-7168; 09-7169; and 09-7171. Moreover, the two (identical) answers filed in Case No. 09-6967 list Judge Shapero as the assigned judge in the caption. The instant adversary proceeding has always been assigned to the undersigned judge (Tucker); never to Judge Shapero.

IT IS ORDERED that the Motion should be, and is, DENIED.

Signed on February 09, 2010

/s/ Thomas J. Tucker
Thomas J. Tucker
United States Bankruptcy Judge